

**UNITED STATES DISTRICT COURT
for the
DISTRICT OF MASSACHUSETTS**

BLACKWELL PUBLISHING, INC.,)
ELSEVIER, INC.,)
ELSEVIER B.V.,)
WALTER de GRUYTER GmbH & CO. KG)
MASSACHUSETTS MEDICAL SOCIETY)
WILEY-LISS, INC.,)
and)
WILEY PERIODICALS, INC.,)
Plaintiffs)
v.)
FEDERAL STATE OF NORDRHEIN-)
WESTFALEN, GERMANY, d/b/a ZBMED)
Defendant.)

Civil Action No. 04-10050-NG

JOINT STATEMENT PURSUANT TO LOCAL RULE 16.1(D)

The parties submit the following statement pursuant to L.R. 16.1(D).

I. Proposed Discovery Plan

The parties will make their initial disclosures under FRCP 26(a)(1) within twenty-one (21) days following their Rule 16 conference with the Court.

The parties believe that discovery with respect to copies of plaintiffs' material delivered into the United States can commence following initial disclosures. With respect to discovery concerning copies of plaintiffs' materials delivered from Germany into countries other than the United States (the "Extraterritorial Claims"), the parties agree that a schedule should not be set at this time. The parties strongly disagree as to whether the Court has jurisdiction over the subject matter of such activity and over the persons sued as

to such activity, and as to whether the Court is a convenient forum for litigation as to such activity. Defendant intends to move for dismissal of the Extra-Territorial Claims on jurisdictional and *forum non conveniens* grounds. The parties agree that discovery pertaining to Extra-Territorial Claims (except such discovery as may be relevant to such motion) should not take place until the Court has ruled on such motion

Subject to the foregoing, the parties agree that phased discovery is not necessary in this matter as combining discovery on liability and damages will be more efficient than phased discovery.

Based on the information available to them at present, with respect to the delivery of copies into the United States, the parties anticipate that each of them will take no more than three depositions per allegedly infringed work and no more than three depositions per adverse party, and make at most three document requests per each adverse party, and propound at most 25 interrogatories. The parties agree that these limits should be considered flexible so as to permit additional discovery should issues arise that make it necessary.

In addition, the parties agree that if the Court has jurisdiction over the Extraterritorial Claims and deems it appropriate to rule upon such claims, additional discovery of all types may be required, and the parties request that they be allowed to submit an additional discovery schedule at that time.

On the basis of the foregoing assumptions, the parties propose that discovery on copies delivered into the United States be concluded by March 30, 2005.

II. Proposed Schedule for Filing of Motions

The parties propose the following schedule. All dates are outside dates by which the motions described, with initial supporting briefs, shall be filed.

December 15, 2004 All motions pursuant to FRCP Rules 12, 15, 19 & 20

June 30, 2005 Dispositive motions pursuant to FRCP Rule 56

_____ Status conference

III. Certification

The parties' certifications under Local Rule 16.1(D)(3) will be filed with the Court within no more than five days after the Scheduling Conference, which is scheduled for July 23, 2004.

IV. Consideration of Trial by Magistrate Judge

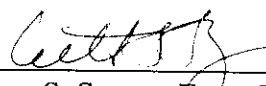
The parties have been unable to agree regarding trial of this matter by a Magistrate Judge, and therefore must report no consent to the same.

Respectfully submitted,

BLACKWELL PUBLISHING, INC.,
ELSEVIER, INC.,
ELSEVIER SCIENCE B.V.,
WALTER de GRUYTER GmbH & CO. KG
WILEY-LISS, INC., and
WILEY PERIODICALS, INC.,
Plaintiffs,

By their attorneys,

Dated: July ____, 2004




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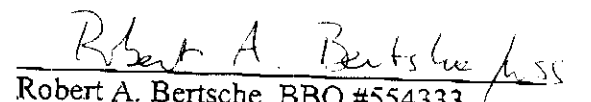
FEDERAL STATE OF NORDRHEIN-
WESTFALEN, GERMANY, d/b/a ZBMED,
Defendant,

By its attorneys,



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